

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	2221.05
COMPLAINT INVESTIGATOR:	Joe Bear
DATE OF COMPLAINT:	February 23, 2005
DATE OF REPORT:	March 22, 2005
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	May 25, 2005

**COMPLAINT ISSUES:**

Whether Crawford County Community Schools and South Central Special Education Cooperative violated:

511 IAC 7-25-2(a) by failing to establish, maintain, and implement written procedures that ensure the location, identification, and evaluation of all students who: (1) have legal settlement within the jurisdiction of the public agency; (2) are from birth, but less than 22 years of age; and (3) are in need of special education and related services regardless of the severity of their disabilities; and

511 IAC 7-23-1(p) by failing to obtain written and dated consent of the parent before personally identifiable information about the student is disclosed to anyone other than the parent or authorized public agency officials, or before the information is used for any purpose other than those specified in this rule.

**FINDINGS OF FACT:**

1. The Student has been identified as having a communication disorder and has been determined eligible for special education and related services.
2. The Special Education Cooperative sends a notice to local newspapers in June of each year for the purpose of identifying children in need of services. The notice states that the Cooperative is coordinating the collection of information regarding students with disabilities, "birth through twenty-one years of age, for the purpose of determining present and future program placement needs," addresses the issue of confidentiality, and provides contact information for the Director of Special Education.
3. The Special Education Cooperative has provided brochures regarding special education services and the special education preschool program to 23 local organizations and professionals, including a Step Ahead council, a county health department, local law enforcement officers, and child caseworkers. Both brochures contain information about the referral process.
4. The Complainant gave consent for an evaluation on October 12, 2004, to determine whether the Student had a learning disability. A Psychoeducational Evaluation was completed by the School Psychologist on January 6, 2005. The evaluation included tests of cognitive functioning, perceptual and motor functioning, academic functioning, adaptive behavior, and the Student's attitudes. The Student's case conference committee (CCC) met on January 24, 2005, to review testing and observations, at which time the Student was determined eligible for continuing communication services. This was the sixtieth instructional day following the Complainant's request for an evaluation.

The CCC determined that the Student was not eligible as a student with a learning disability, but continued to be eligible as a student with a communication disorder.

5. At the CCC meeting for the Student on January 24, 2005, the CCC discussed that the Student might be able to read with a group of students from another grade level. According to the Complainant, the General Education Teacher suggested a reading group with another student "and my other bright readers." No specific information was shared with the CCC about the other student, except for the teacher's view that the student was "bright." The Complainants have not mentioned a concern about confidential information pertaining to the Student.

#### **CONCLUSIONS:**

1. Findings of Fact #2 and #3 indicate that the School has child identification procedures in place. Finding of Fact #4 indicates that evaluation procedures were followed. Therefore, a violation of 511 IAC 7-25-2(a) is not found.
2. Finding of Fact #5 indicates that the School did not share confidential information pertaining to another student. The view that another student is "bright," as presented by the teacher, would not generally be considered an invasion of privacy. In this case, there was no need to obtain written and dated consent of the parent. Therefore, a violation of 511 IAC 7-23-1(p) is not found.

**The Department of Education, Division of Exceptional Learners, requires no corrective action based on the Findings of Fact and Conclusions listed above.**